IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

MACA.No. 2034 of 2006()

OPMV.373/1997 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANT/IST RESPONDENT

V.G.RAMESH, S/O.GOKSHAPAN, AGED 39 YEARS,
VALIYAVEETTIL HOUSE, MUDICKAL P.O.,
PERUMBAVOOR-683 542.

BY ADV. SRI.RENNY AUGUSTINE

RESPONDENTS/PETITIONERS & RESPONDENTS 2 & 3:

1. ANNAM, W/O.LATE THOMAS,AGED ABOUT 73 YEARS,
CHULLY HOUSE,CHELAMATTOM KARA,
CHELAMATTOM VILLAGE.

2. ROSELY, W/O.VAKKACHAN,AGED ABOUT 53 YEARS,
KOONATHAM HOUSE, THANNIPPUZHA, OKKAL P.O.

3. JOSEPH, S/O.LATE THOMAS, AGED ABOUT 50 YEARS,
CHULLY HOUSE, CHELAMATTOM KARA,
CHELAMATTOM VILLAGE.

4. JOY, S/O.LATE THOMAS,AGED ABOUT 46 YEARS,
CHULLY HOUSE, CHELAMATTOM KARA,
CHELAMATTOM VILLAGE.

5. THRESSIYAMMA, W/O.VARGHESE,
AGED ABOUT 44 YEARS,
KAZHATHATHARA HOUSE, NEAR TELK, ANGAMALY.

6. JOHNY, S/O.LATE THOMAS, AGED ABOUT 42 YEARS,
CHULLY HOUSE, CHELAMATTOM KARA,
CHELAMATTOM VILLAGE.

7. VEERAPPAN, S/O.VELAYUDHAN,
AGED ABOUT 38 YEARS,
SHESTAMPARAMBIL HOUSE, PALLIPRAM KARA,
MARAMPILLY VILLAGE.

8. UNITED INDIA INSURANCE COMPANY LIMITED,
CITY BRANCH OFFICE,
KANNANKERI ESTATE, SHANMUGHAM ROAD,
COCHIN-31.

BY ADV. SRI.PMM.NAJEEB KHAN (R8)
SRI.SUMAN CHAKRAVARTHY (R7)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY EARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.2034 OF 2006

Dated 29th June, 2007

JUDGMENT

Koshy,J.

This appeal is filed by the registered owner of the vehicle questioning the award of the Tribunal enabling the insurance company to realise the compensation from him.

2. Heard counsel for the appellant as well as contesting respondents. Claim petition was filed by the legal representatives of the motor accident victim. The Tribunal awarded a compensation of Rs.98,300/= against a claim of Rs.2,50,000/=. The Tribunal found that the accident occurred due to the negligence of the 7th respondent who was driving the vehicle insured by the insurance company. The Tribunal directed the insurance company to pay the compensation and realize it from the registered owner/insured as the driver was not having valid driving licence. It is the case of the appellant that he has sold the vehicle before the accident. But, it was found on evidence that transfer of the vehicle was after the date of accident. Main contention is that the driver had valid driving licence and licence was produced on 2.11.1999 vide Cf.No.21113/99, but, the Tribunal did not record and consider the same. In the above circumstances, we

are of the opinion that the matter should be remanded for reconsidering the same. Counsel for the 7th respondent driver also submitted that he had a valid driving license at the time of the accident and it was produced before the Tribunal. The only question to be considered is regarding the recovery aspect by the insurance company and whether 7th respondent has a valid licence at the time of the accident. Only insurance company, driver and appellant need appear before the Tribunal and claimants need not appear before the Tribunal. The Tribunal shall post the case on 22.8.2007 and parties are directed to take notice of the same for their appearance.

Appeal is allowed by way of remand.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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